IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

WEDNESDAY, THE 25TH JULY 2007 / 3RD SRAVANA 1929

RPFC.No. 7 of 2001()

AGAINST THE ORDER DATED 08/08/2000 IN CMP NOS. 144/1999 & 145/99 IN MC.323/1994 of FAMILY COURT, KOZHIKODE.

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REVISION PETITIONER/PETITIONER/RESPONDENTS :

M.ABDUL NAZAR
S/O.MOIDEEN
PARAYIL HOUSE, CHENAKKALANGADI P.O.
THENHIPPALAM, MALAPPURAM DT.

BY ADV. SRI.P.V.KUNHIKRISHNAN

RESPONDENT: RESPONDENT/PETITIONER

KUNHEEBI, D/O.MOOSAKOYA
NAGATHUMPADAM, PALAKKANDI PARAMBA
P.O.OLAVANNA, KOZHIKODE
NALLALAM POLICE STATION LIMIT.

BY ADV. SRI.MANJERI SUNDERRAJ

THIS REV.PETITION(FAMILY COURT) HAVING BEEN FINALLY HEARD ON 25/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.R.UDAYABHANU, J

R.P.(FC).No.7 of 2001

Dated this the 25th day of July, 2007

O R D E R

The revision petitioner is the husband in M.C.No.323/94 who is under orders to pay maintenance at the rate of Rs.500/- per month with effect from 11.7.1994. The order was an ex-parte one. He had applied for setting aside the ex-parte order before the Family Court. He has testified before the Family Court in the above proceedings. i.e., C.M.P.Nos.144/99 and 145/99. The Family Court dismissed the application mainly on the ground that his version that he has not received summons was found to be not correct as he had appeared before the counsellor. It is pointed out that the summons was received by his brother and it was in the above context the contention that he did not receive the summons was considered. Petitioner prays for an opportunity to contest the matter.

In the circumstances, the revision petition is allowed. The orders of the court below in the matter is set aside on condition

that the revision petitioner deposit the entire arrears due within two months from today, less the amount, if any, remitted. The Family Court, Kozhikode is directed to permit the petitioner to contest the matter and dispose of the case on merits. The petitioner has sought for permission to file petition to set aside the sale of his property by the Executive Magistrate. The above prayer is allowed. The matter will be posted before the court below on 30.8.2007.

K.R.UDAYABHANU,
JUDGE

csl